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IMPLICIT NETWORKS, INC.

Additional counsel listed on signature pages

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SUN MICROSYSTEMS INCORPORATED,

Plaintiff/Counter-defendant,

v.

IMPLICIT NETWORKS, INC.

Defendant/Counter-claimant.

Case No. CV 09-0201 SI

**STIPULATED MOTION TO
CONSOLIDATE CASES PURSUANT TO
FED. R. CIV. P. 42(A) AND [PROPOSED]
ORDER**

IMPLICIT NETWORKS, INC.,

Plaintiff,

v.

INTERNATIONAL BUSINESS MACHINES
CORPORATION, ORACLE CORPORATION,
SAP AMERICA, INC., AND ADOBE
SYSTEMS INCORPORATED,

Defendants.

Case No. CV 09-1342 BZ

1 IT IS HEREBY STIPULATED by and between all parties to the two above-captioned
2 actions, by their counsel of record, as follows:

3 WHEREAS the action entitled *Sun Microsystems, Incorporated v. Implicit Networks,*
4 *Inc.*, Case No. CV 09-0201 SI (“*Sun v. Implicit*”) is pending in this Court, and whereas the
5 action entitled *Implicit Networks, Inc. v. International Business Machines Corporation,*
6 *Oracle Corporation, SAP America, Inc. and Adobe Systems Incorporated*, Case No. C08-
7 01080, was transferred from the Western District of Washington pursuant to 28 U.S.C. §
8 1404(a) by order of that court dated March 19, 2009, for purposes of consolidation with *Sun*
9 *v. Implicit* (and has been assigned Case Number C 091342 BZ by the Northern District of
10 California); and

12 WHEREAS all parties agree that these cases are related pursuant to Local Rule 3-12,
13 such that there would be an unduly burdensome duplication of labor and expense or
14 conflicting results if the cases are conducted before different Judges, and
15

16 WHEREAS all parties to the above-captioned actions agree that these two actions
17 should be consolidated pursuant to Fed. R. Civ. Proc. 42(a), because these two actions are,
18 respectively, a patent declaratory relief action and a patent damages action, both of which are
19 based upon the same two U.S. Patents and are likely to involve similar claims, issues and
20 defenses;

21 THEREFORE IT IS HEREBY STIPULATED that the two above captioned actions
22 are consolidated, pursuant to Fed. R. Civ. Proc. 42(a), for all purposes including trial.
23

25 Dated: March 27, 2009

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6
7 *Attorney for Defendant/Counter-claimant*
8 *Implicit Networks, Inc. in CV 09-0201*
9 *and Attorney for Plaintiff/Counter-defendant in CV-*
10 *09-1342*

Dated: March 27, 2009

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28 *Attorney for Plaintiff/Counter-defendant*
29 *Sun Microsystems Incorporated*

Date: March 27, 2009

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9 Date: March 27, 2009

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20 Date: March 27, 2009

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2 *Attorneys for Defendant International Business*
3 *Machines Corporation*
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5
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7 **CERTIFICATION PURSUANT TO GENERAL ORDER 45**
8

9 Pursuant to General Order 45X.B, I, George Bishop, attest that the above
10 signatories have concurred and consented to the filing of this document.
11

12 DATED: March 27, 2009
13

14 /s/George F. Bishop
15 George F. Bishop
16

1 PURSUANT TO STIPULATION IT IS SO ORDERED
2

3 Dated: _____
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6 Honorable Susan Illston
7 JUDGE OF THE U.S. DISTRICT COURT
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25 *Attorneys for Defendant International Business Machines Corporation*

1 I certify under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct.

3 DATED: March 27, 2009
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5 /s/ Janine DeAndre
6 Janine DeAndre
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